



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 Sixth Avenue  
Seattle, WA 98101

NOV 10 1999

Reply To  
Attn Of: OAQ-107

Michele Brown, Commissioner  
Alaska Department of Environmental Conservation  
410 Willoughby Avenue, Suite 105  
Juneau, AK 99810-1795

Dear Ms. Brown:

*Michele*  
This letter is in response to our recent meeting with Cominco Alaska Incorporated (Cominco) regarding the Department of Environmental Conservation's (ADEC's) proposed draft Permit to Construct for Cominco's Red Dog mine site. I would first like to thank to you and your staff for taking the time to meet on October 21, 1999, to discuss Cominco's Production Rate Increase Project. I believe the meeting was successful in resolving some and clarifying all of the issues concerning the proposed Prevention of Significant Deterioration (PSD) permit drafted by ADEC. I am writing you to summarize our current position on each issue in hopes that we can quickly find a solution agreeable to everyone. As we discussed in that meeting, we have been able to narrow the discussions to what I see as five distinct issues. Each of these issues is reviewed below including the understanding I have based on our last meeting.

**ISSUE #1: What is U.S. Environmental Protection Agency's (EPA's) role in the PSD permitting process in Alaska?**

During the meeting both ADEC and Cominco questioned EPA's role in ADEC-issued PSD permits, noting that EPA should not be involved unless the State's decision is erroneous or arbitrary. We disagree and strongly believe that EPA has a statutorily mandated role in the PSD permitting process in Alaska and in the rest of the nation. As explained below and communicated during our meeting, we believe ADEC's conclusions are not supported by the record and are therefore arbitrary and erroneous.

As outlined later in this letter, the Cominco permit as proposed does not comply with the PSD provisions of the Clean Air Act. Section 167 of the Act, 42 U.S.C. § 7477, provides EPA with the authority to act in precisely this kind of situation. Specifically, Section 167 provides that the Administrator shall take such measures, including issuance of an order, as necessary to prevent the construction or modification of a major emitting facility which does not conform to the requirements of Part C of the Act. Additionally, it is the Agency's policy that when a regional office determines that a permitting authority is likely to grant an improper permit, the appropriate response is to issue a section 167 order demanding that the permit not be issued. In this instance, because the proposed permit would allow Cominco to construct a major source without requiring BACT it is entirely appropriate for EPA to exercise its statutory authority. Contrary to Cominco's arguments on this point, there is no relevant case law supporting the proposition that EPA's involvement prior to the issuance of the PSD permit is inappropriate.

COM 55-001

**ISSUE #2: Is installing and operating selective catalytic reduction (SCR) on emission units MG-5 and MG-17 economically infeasible?**

As discussed in more detail below, consideration of the collateral issues of energy, environmental or economic impacts and other costs do not justify elimination of SCR as BACT in this case. We believe that ADEC's own analysis supports the determination that BACT is SCR, which renders ADEC's decision in the proposed permit erroneous.

As we discussed at the meeting, EPA does not believe that the cost effectiveness stated in the final Technical Analysis Report (final TAR) to the draft Permit indicates that the installation of SCR is economically infeasible. These costs are well within the range of costs EPA has seen permitting authorities nationwide accept as economically feasible for NO<sub>x</sub> control except where there are compelling site specific factors that indicate otherwise. Furthermore, in the preliminary Technical Analysis Report (preliminary TAR) ADEC indicated the costs for SCR were "well within" what ADEC considers economically feasible (preliminary TAR at p. 41). The ADEC's record does not support its change in its decision as stated in the final TAR that SCR is not economically feasible.

ADEC has expressed the concern that if SCR is required at Cominco, then SCR would automatically be required for new or modified engines at rural electric utilities. The concern is understandable given the essential nature of the service provided by the rural utilities in Alaska. We share your concern regarding the cost of electricity in rural Alaska and the impact of those costs on the rate payers. In accordance with EPA guidance and case law, BACT determinations are made based on individualized consideration of the specific facts and circumstances at the facility being permitted. Specifically, once the most effective technically available control technology is identified, the collateral issues of "energy, environmental, and economic impacts and other costs" (18 AAC 50.990(13)) are considered. Consideration of these collateral issues may operate as a 'safety valve' when circumstances unique to a specific facility justifies use of a less effective technology. The significant and unique local factors associated with rural electric utilities serving small Alaskan communities would be specifically analyzed in any BACT determination involving the rural utility. We are currently reviewing such an analysis for Nome Joint Utility System (NJUS) and have provided you with a letter regarding that proposed permit and continue to support analyzing the energy, economic, and environmental impacts and other costs in determining BACT. As noted in the letter on NJUS, its status as a non-profit, isolated public utility, influences how those "other costs" are considered in determining BACT.

**ISSUE #3: Will the emissions from units MG-1, MG-3, MG-4, and MG-5 be allowed to increase?**

As the permit is currently drafted we believe that the four "bubbled" generators are subject to PSD and BACT. During our meeting I suggested this dispute could be avoided if the potential to emit for the generators (MG-1, MG-3, MG-4 and MG-5) were not increased. In order to accomplish this, I suggested that Cominco consider installing Low-NO<sub>x</sub> on the engines listed above in order to keep emissions from all four engines less than the emission cap of 2,259 tons of NO<sub>x</sub> per year. Preliminary calculations conducted by Mr. Trbovich confirmed that Cominco could comply with this emissions cap on these four units if low-NO<sub>x</sub> technology were

installed on the units. I made this proposal in an effort to reduce the areas of disagreement between Cominco and EPA since this could eliminate further discussions of what constitutes BACT for unit MG-5 and avoid further debate on the need to install BACT on the remaining generating units. To that end, I propose that Cominco document that emissions from these 4 engines would remain under the emissions cap. Refurbishment of the generating units with the Low-NO<sub>x</sub> technologies may occur on a staggered basis as opposed to immediate installation upon the issuance of the PSD permit. If this approach is not implemented, then EPA's position remains that BACT is required for MG-1, MG-3, MG-4, MG-5 and MG-17.

**ISSUE #4: Is Cominco's ambient air boundary clearly defined, and sufficiently controlled to preclude public access and are off-duty workers adequately protected?**

My staff has conducted a preliminary review of the information provided, which included a better description of the boundary and the plan to restrict public access. We're continuing to evaluate this information and hope to discuss this in more detail with your staff soon.

**ISSUE #5: Is the PM-10 increment on the haul road being adequately protected and what measure must be taken to insure that protection?**

The ADEC has proposed to require Cominco to implement periodic monitoring of visible emissions from the roadway in order to verify that PM-10 from the road is adequately controlled. From discussions with ADEC personnel, it is the understanding of my staff that the intent was to monitor the visible emissions which result from a truck passing a given point and that the monitoring would last from the first moment visible emissions were observed and continue until no visible emissions are observed. If this understanding is correct, I believe EPA can accept this periodic monitoring for visible emissions. The permit should more specifically define the duration of the observation including the criteria for when to begin and end the observation.

Currently the draft Permit does require ambient monitoring for PM-10 be conducted by Cominco. EPA has previously stated its concerns regarding the assessment of PM-10 emissions from the road in the draft permit. Given these concerns and the fact that the modeled results are very near levels of regulatory concern, I believe it is imperative that Cominco verify that the emissions from the roadway do not impact the ambient air in excess of the allowable levels. In order to accomplish this, ambient PM-10 monitoring is essential.

**Summary**

I hope this furthers our Agency's mutual desire to resolve this matter in a timely and effective manner. I look forward to our continued collaboration.

Sincerely,



Chuck Findley  
Deputy Regional Administrator

cc: Tom Chapple, ADEC  
John Stone, ADEC

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